

1 (Whereupon, the following
2 proceedings were had out of in
3 camera.)

4 BY MR. ROBERTSON:

5 Q And --

6 MR. CASEY: At this point I'm going to ask that
7 we go into closed session. I just said we weren't --
8 we agreed that we weren't going to quote specific
9 information within there but make an extrapolation.

10 MR. ROBERTSON: Well, I don't know that I
11 quoted the specific information. I think the witness
12 may have in his response. I don't know if the
13 Company feels --

14 MR. CASEY: If that's the case, your Honor, and
15 it's difficult for the witness to answer without
16 disclosing confidential information, we'd ask that we
17 go into closed session.

18 JUDGE SAINOT: Okay. Let's start with
19 something very basic. What is so confidential about
20 this? This appears to be aggregate information. So
21 just clue me in.

22 MR. CASEY: Well, it may appear to be aggregate

1 but it's built upon each individual main size. So
2 the information -- two things, one, no party objected
3 to the confidentiality of this document. The Company
4 requested confidential treatment of this document,
5 and the information contained thereon -- therein
6 builds from the specific confidential information.
7 One could -- well I'll leave it at that.

8 JUDGE SAINSOT: Well, I'm not sure that just
9 because nobody objected makes it confidential.

10 MR. CASEY: Finally, your Honor, IIEC has not
11 expressed any disagreement with going into closed
12 session so that they can complete their examination.
13 Therefore, if there's any kind of benefit to the
14 doubt here, we'd ask that the Company be given that
15 benefit.

16 MR. ROBERTSON: Well, I certainly don't have an
17 objection. I have one more question about a
18 percentage that he can calculate from information
19 that is contained on Page 10, I believe, of 16. And
20 I'm going to ask him if he would accept that, subject
21 to check, that a certain percentage of gas flows
22 through 6-inch mains or less for Rate 77 customers.

1 And --

2 JUDGE SAINSOT: Are you going to use --

3 MR. ROBERTSON:: -- he'll have to make the

4 calculation based on any numbers that are on that

5 page.

6 JUDGE SAINSOT: Right.

7 Are you going to use the exact

8 numbers? I think that's the problem that Mr. Casey

9 is referring to.

10 MR. ROBERTSON: No, I wasn't going to mention

11 the exact numbers --

12 JUDGE SAINSOT: Okay.

13 MR. ROBERTSON:: -- and that's the end of my

14 cross.

15 JUDGE SAINSOT: So does that take care of your

16 problem?

17 MR. CASEY: Yes, it does.

18 JUDGE SAINSOT: Okay. Good.

19 BY MR. ROBERTSON:

20 Q Okay. Mr. Mudra, would you agree, subject

21 to check, that approximately 27 percent of the peak

22 day gas for Rate 77 customers is delivered through

1 mains that are 6 inches in diameter or less?

2 A Would you please repeat the percentage.

3 Q Approximately 27 percent.

4 A That's correct.

5 Q Lastly, would you agree that one of the
6 primary purposes of using the MDM study results in
7 the Company's imbedded cost of service study in this
8 case was to recognize that large volume customers
9 make much more limited use of small diameter mains
10 than do small volume customers?

11 A I would say that the purpose for Nicor Gas
12 to use the MDM study in this case and in the last
13 case was to improve the accuracy of the imbedded
14 costs of service study by more accurately allocating
15 the distribution mains costs by all -- to all rate
16 classes by size of pipe that -- you know, which
17 customer class is using which size of pipe.

18 MR. ROBERTSON: I have nothing further.

19 Thank you, Mr. Mudra.

20 MR. CASEY: At this point, your Honor, I ask
21 that the response given by Mr. Mudra to
22 Mr. Robertson's first question in this series be

1 stricken to protect the confidential nature of this
2 document.

3 MR. ROBERTSON: Well, your Honor, I -- unless
4 somebody actually had the numbers of the peak day
5 flow, the percentage --

6 MR. CASEY: I don't have a problem -- I'm
7 sorry. Go ahead.

8 MR. ROBERTSON: Okay -- the percentage of the
9 flow through any side main is meaningless. And
10 nobody spoke about what the actual peak day flows
11 were.

12 And so I don't know -- I think I'm
13 like you, I'm not sure as to -- although this
14 document is marked confidential how asking the
15 witness what the -- to accept, subject to check, the
16 approximate peak day flow violates any
17 confidentiality.

18 Secondly, the witness himself has put
19 in percentages on the size -- use of size of mains in
20 his rebuttal testimony, Nicor Exhibit 29 at Page 17.

21 JUDGE SAINSBOT: Let me take a look at that.

22 17?

1 MR. ROBERTSON:: Yeah, which is even more
2 specific than the question I asked.

3 By the way, your Honor, it was not my
4 intent to violate any confidentiality in asking the
5 question.

6 MR. CASEY: As your Honor's reviewing it, while
7 they may not have been Mr. Robertson's intent the
8 fact of the matter is the information -- the specific
9 information that has been marked confidential and
10 that Mr. Robertson came to me indicating his
11 understanding of the -- that it was marked
12 confidential was still disclosed.

13 It may not have been the intent, but
14 it did violate the spirit what it is the Company
15 agreed to when this cross-examination began.

16 He got the answer that -- in his final
17 two questions. I fail to see the requisite need to
18 have the answer to that first question in there to
19 support the last two.

20 JUDGE SAINSBOT: Mr. Robertson, do you really
21 need to have that percentage in evidence?

22 MR. ROBERTSON: Well, I would like some

1 indication generally of the percentage that flows
2 through the 6-inch mains or smaller for these
3 customers.

4 [!EZ SPEAKER 02]: The only other remedy then,
5 your Honor, would be just to mark Mr. Mudra's
6 response confidential then for the record.

7 MR. ROBERTSON: I have no objection to that if
8 that's what you all want to do.

9 JUDGE SAINSOT: Why don't we do it that way.
10 That way we can all move on.

11 Okay. So you're done, Mr. Robertson?

12 MR. ROBERTSON: Fortunately for everybody, yes.

13 JUDGE SAINSOT: Okay. Who's next?

14 [!EZ SPEAKER 04]: Staff has just a few
15 questions for Mr. Mudra.

16 CROSS-EXAMINATION

17 BY

18 MS. VONQUALEN:

19 Q Good afternoon.

20 A Good afternoon.

21 Q Janis VonQualen on behalf of Staff
22 witnesses.

1 Mr. Mudra, I'd like you to refer your
2 attention to your direct testimony in Exhibit 14.2,
3 which was attached thereto. Specifically I'm looking
4 at Rider 8, and it's found on Page 100 of
5 Exhibit 14.2.

6 MR. CASEY: Miss VonQualen, what that was cite
7 again?

8 [!EZ SPEAKER 04]: Exhibit 14.2, Page 100.

9 [!EZ SPEAKER 02]: Thank you.

10 BY [!EZ SPEAKER 04]:

11 Q Are you there?

12 A I would prefer to use the exhibit in my
13 surrebuttal testimony just to be sure I have the most
14 recent version of Rider 8 as we talk.

15 Q That's fine with me. I don't have that in
16 front of me, but I think that if you look at your
17 surrebuttal and I look at your direct, I don't think
18 we'll be far apart.

19 JUDGE SAINSOT: Okay. Mr. Mudra, can we have a
20 page number?

21 THE WITNESS: Yes. I'm looking at
22 Exhibit 48.2, Page 100 of 100. Actually the page

1 number is incorrect. It's Page 100 of 148. It's
2 mislabeled.

3 JUDGE SAINSOT: Thank you.

4 BY [!EZ SPEAKER 04]:

5 Q Mr. Mudra, I'm looking at towards the
6 middle of the page there's a paragraph titled, Local
7 Government Utility Tax Charge, and that entire
8 paragraph is underlined as in the Company wishes to
9 insert this in Rider 8?

10 A That's correct.

11 Q Looking towards the middle of the paragraph
12 there's a sentence that states, The additional charge
13 shall cover -- and then there are a numbers 1, 2 and
14 3 in parens. In regards to that section, would you
15 agree that a customer could be overcharged because of
16 an improper municipal tax collection?

17 A Yes, because of an improper collection.

18 Q If an overcharge occurred, would you agree
19 that the occurrence could cause a decrease in taxes
20 and other payments to governmental bodies?

21 A Yes.

22 Q Would the Company agree to change the

1 language after No. 3 there to read, The income or
2 decrease in taxes and other payments to governmental
3 bodies resulting from the additional charge?

4 A Yes.

5 [!EZ SPEAKER 04]: Thank you.

6 I have no further questions.

7 JUDGE SAINSOT: Anybody else?

8 MS. LUSSON: Yes.

9 CROSS-EXAMINATION

10 BY

11 MS. LUSSON:

12 Q Good morning -- sorry -- afternoon,
13 Mr. Mudra.

14 A Good afternoon.

15 Q My name's Karen Lusson. I'm from the
16 Attorney General's Office on behalf of the People of
17 the State of Illinois.

18 If you could turn to Page 43 of your
19 direct testimony. I just want to talk for a few
20 minutes about the mechanics of Rider VBA as proposed
21 by the Company.

22 Now it's correct, isn't it that Rider

1 BBA establishes a benchmark rate case margin per
2 customer by customer class; is that right?

3 A No.

4 Q Can you correct what was wrong with that
5 phrase.

6 A Rider VBA establishes a percentage of fixed
7 costs that are imbedded within the Company's
8 volumetric distribution charges during a rate case
9 period. And it allows the Company to recover the
10 aggregate dollar amount of fixed costs that are
11 imbedded within the Company's volumetric distribution
12 charges. It reconciles to a whole number rather than
13 to a per customer number.

14 Q Let's turn to your Exhibit 29.2, which is
15 your volume balancing adjustment Rider 28 tariff.

16 MR. CASEY: Which page?

17 [!EZ SPEAKER 03]: Exhibit 29.2.

18 MR. CASEY: That 29.2 contains multiple riders.
19 Page 26 of 33, is that where you're at?

20 MS. LUSSEN: At page --

21 MR. CASEY: Excuse me. 20 --

22 MS. LUSSEN: I think 25 of 33.

1 MR. CASEY: 20.

2 JUDGE SAINSOT: 25. Okay.

3 MR. CASEY: Thank you.

4 BY [!EZ SPEAKER 03]:

5 Q And the benchmark rate case margin per

6 customer that's established in this case is compared

7 with the actual margin revenues that occur -- that

8 are used by customers assuming Rider VBA is approved

9 by the Commission; is that correct?

10 A First, may I refer to Exhibit 48.2 on

11 surrebuttal?

12 Q Sure.

13 A That is the most current copy of Rider VBA.

14 Q Okay.

15 A Could you please repeat the question.

16 Q Sure.

17 Is it correct that the Rider VBA, the

18 benchmark rate case margin level established in this

19 case would then be compared with actual margin

20 revenues by a customer class and then applied two

21 months later in bill as either a surcharge or a

22 credit, is that correct, for those three customer

1 classes?

2 A No.

3 Q The benchmark margin revenue that is
4 established in this case would be compared with
5 actual margin revenues for Rates 1, 4 and 74 under
6 Rider VBA; is that correct?

7 A At the end of the year in the
8 reconciliation proceeding.

9 Q Okay. And then for the monthly -- for
10 purposes of determining the monthly surcharges or
11 credits, the -- explain how that would occur.

12 A The effective component of Rider VBA is
13 based upon the average rate case margin per customer
14 and the average actual margin per customer. And it
15 compares those two average margins per customer on a
16 monthly basis and then adjusts future customers'
17 bills based upon the difference between those two
18 averages at the percentage of fixed costs that are
19 imbedded within the distribution charges and applied
20 only to the rate case customer levels that are
21 approved in this proceeding.

22 Q And the effect -- the rate effect of that

1 calculation would appear on customer bills two months
2 after the component is filed with -- each month with
3 the Commission; is that right? There's a two-month
4 delay between the actual filing and computation in
5 terms of the amount showing up on a customer bill?

6 A Yes, there is a two-month delay between the
7 time we get the actual data compute, the effective
8 charge and then apply it to a customer's bill two
9 months later.

10 Q Now, this is been -- this is going to be
11 applied -- if the Commission approves it, to Rates 1,
12 4 and 74; is that correct?

13 A That's correct.

14 Q And Rate 1 is the residential customer
15 class; is that right?

16 A Yes.

17 Q And Rate 4 would be the commercial customer
18 class; is that correct?

19 A Yes.

20 Q And can you describe what the commercial
21 customer class typical customer is?

22 A Rate 4 and 74 are companion rates, and they

1 represent nonresidential customers. They can range
2 from very small storefront businesses, like a video
3 store, to actual manufacturing companies using 10,
4 20, 30,000 therms a month.

5 Q And how about Rate Classification 74,
6 transportation customers, can you describe a typical
7 customer.

8 A They would have the same description in
9 terms of range of possible sizes. But a Rate 74
10 customer has elected to purchase their supplies from
11 a third-party supplier, and they do not pay for
12 storage in their bundled rate. They purchase it
13 separately under the storage banking service charge.

14 Q And would there be separate benchmarks
15 established for unbundled residential and commercial
16 customers that would result in different Rider VBA
17 credits and surcharges than bundled customers? And
18 by "bundled," I mean -- "unbundled," I mean,
19 customers who contract with gas retailer supplies for
20 their commodity portion of their natural gas delivery
21 service.

22 A There shall be a effective component

1 computed for each rate designated in the rider, Rates
2 1, Rates 4 and 74.

3 Q So my question is, if a customer --
4 residential customer, Rate 1 customer is an unbundled
5 customer that has contracted with an alternative
6 retail gas supplier for the commodity portion of
7 their service, would the Rider VBA credit or
8 surcharge for those customers be different than the
9 bundled residential and commercial customers?

10 A Rate 1 customers -- residential customers
11 who are served by Nicor Gas and Rate 1 customers who
12 are served by a marketer are both served by the same
13 distribution charges under Rate 1. And so,
14 therefore, there would be one effective component for
15 both of those customers.

16 Q Okay.

17 JUDGE SAINSOT: And when you say "a marketer,"
18 Mr. Mudra, you mean an alternative gas supplier?

19 THE WITNESS: That's correct.

20 BY [!EZ SPEAKER 03]:

21 Q So you cannot envision any scenario in
22 which bundled and unbundled residential customers

1 would have different rate effects from Rider VBA?

2 A Both of those customers are paying the
3 exact same distribution rates. And so Rider VBA
4 adjusts their future charges based upon differences
5 to this same rate that they're paying.

6 Q I'm going to show you what I'll mark as AG
7 Cross Exhibit, I believe, 15.

8 (Whereupon, AG Cross-Exhibit
9 No. 15 was marked for
10 identification.)

11 BY [!EZ SPEAKER 04]:

12 Q AG Cross-Exhibit 15 is the Company's
13 response to -- I'm sorry, yes -- is the Company's
14 response to AG Data Request 3.15. And was this
15 response prepared by you or under your supervision?

16 A Yes.

17 Q Now, this response -- or request asks for
18 revenue impacts to rates if Rider VBA had been in
19 place from 2003 through 2007. And the Company's
20 response references Staff Data Request SK2.01, which
21 supplies that data for each of the past ten years; is
22 that correct?

1 A That's correct.

2 Q And SK2.01 was also prepared by you or
3 under your supervision; is that right?

4 A Yes, it was.

5 Q Talk about the filing requirements
6 associated with each of the five proposed riders, is
7 it correct that each of the riders would require
8 filings establishing effective components or rates to
9 be charged for the customer classes that they apply
10 to? In other words, they would require filing with
11 the Commission stating that this is a rate to be
12 charged or a credit to be incurred as a result of
13 this rider?

14 A That's correct.

15 Q And is it correct that each of the riders
16 would require annual reconciliation -- annual
17 reconciliation filings?

18 A Over the course of the case, I believe
19 Staff has requested that there would be annual
20 reconciliations on all of the riders. So I do
21 believe it's correct that there would be
22 reconciliation on each rider.

1 Q Okay. And, for example, under the Company
2 Use Adjustment Rider, is it correct that there would
3 be an annual docketed filing a prudency and
4 reasonableness of cost determination in that
5 reconciliation proceeding -- well, let me stop there.

6 A Yes, before March 31st of each year the
7 Company files a petition with the Chief Clerk to
8 initiate an annual docketed reconciliation process,
9 and that petition shall be supported by testimony as
10 to the prudence and reasonableness of the costs
11 charged under Rider CUA.

12 Q And under Rider CUA, there would be also an
13 annual internal audit with specific tests as proposed
14 by Staff?

15 JUDGE SAINSOT: You're talking about the
16 Company Use Adjustment Rider?

17 MS. LUSSON: Yes.

18 JUDGE SAINSOT: Okay.

19 BY [!EZ SPEAKER 03]:

20 Q And I'm referring to Page 51 of your
21 rebuttal testimony if that helps.

22 A On Sheet No. 80.3 in Rider 27 Exhibit 48.2

1 Page 135 of 148 under Section E, Annual Internal
2 Audit Requirements of Rider CUA, the Company will
3 conduct an annual internal audit and submit it to the
4 manager of the Commission's Accounting Department
5 before March 20th of each year. And that audit shall
6 include at least the following tests -- and there are
7 four of them.

8 Q Okay. And then with respect to Rider EEP,
9 there would be a reconciliation docket as well as an
10 annual internal audit report requirement for that
11 rider as well, wouldn't there?

12 A That's correct.

13 Q And with respect to Rider QIP, there would
14 be an annual docketed reconciliation period --
15 reconciliation docket that includes a prudence and
16 reasonableness of cost determination in that docket;
17 is that correct?

18 A Yes, the petition is supported by testimony
19 from the Company as to the prudence and
20 reasonableness of the costs charred under QIP.

21 Q And with Rider QIP there would be an annual
22 internal audit with specific tests required as a part

1 of that rider as well; is that right?

2 A That's correct.

3 Q And finally with -- not finally -- with the
4 Uncollectible Expense Adjustment Rider, again, there
5 would be an annual docketed reconciliation proceeding
6 with prudence and reasonableness of costs
7 determinations in that proceeding; is that right?

8 A That's correct.

9 Q And there would also be an annual internal
10 audit for that rider as well; is that correct?

11 A That's correct.

12 Q Now, with respect to Rider VBA on the
13 Volume Balancing Adjustment Rider, I believe in your
14 rebuttal testimony you adopt proposed modifications
15 to the tariff from the Staff, assuming the Commission
16 adopted Rider VBA, and that proceeding -- or that
17 tariff would also include reconciliation proceeding;
18 right?

19 A That's correct.

20 Q And there would also be an annual internal
21 audit report that would be filed with the Commission
22 associated with that tariff?

1 A You're referring to Rider VBA, Rider 28
2 that was filed on rebuttal?

3 Q Yes.

4 A Yes. And at that time the Company added
5 the internal audit requirements and other items
6 relating to the reconciliation at Staff's request.

7 Q Now, would you expect the Commission Staff
8 to be involved in those docketed proceedings as well
9 as possibly other intervenors depending on the rider
10 involved?

11 A Yes, I would expect the Commission Staff to
12 be involved and there could be other intervenors.

13 Q And is it correct that the Company has not
14 made any sort of estimate as to the costs associated
15 with the administrative and regulatory costs
16 associated with the all of these filings that would
17 be required by these five riders?

18 A Are you referring to costs at the
19 Commission?

20 Q Costs for both the Company and the
21 Commission and any party that might intervene.

22 A The Company would not estimate needing to

1 add any employees to perform its work related to the
2 reconciliation process or the internal audits. So we
3 wouldn't envision any new incremental costs
4 associated with employees to conduct that work.

5 I could not speak to the costs of
6 other intervenors or the Commission itself.

7 Q Now, in your rebuttal testimony with
8 respect to Rider VBA you indicated that the Company
9 would file a -- in response to Staff Witness Burma
10 Jones' recommendation provide an annual earned rate
11 of return report for the fiscal year and an analysis
12 of the impact that VBA revenues collected during the
13 most recent fiscal year on that reported earned
14 return; is that correct?

15 A Can you give me a citation?

16 Q Yes, I believe that is on Page 53, Line
17 1117.

18 A Yes, it states that annually we would
19 report the effects of Rider VBA on the Company's rate
20 of return.

21 Q And this -- would this -- do you envision
22 this to be a part of the annual reconciliation

1 process, that information?

2 A That would be part of the Company's annual
3 statement of the reconciliation adjustment
4 components, RA1 and RA2. As part of that filing, the
5 Company will provide the annual earned rate of return
6 for the most recent fiscal year and an analysis of
7 the impact of VBA revenues collected during recent
8 fiscal year. That's provided and filed with the
9 Commission annually no later than March 31st.

10 Q So that would be separate and apart from
11 the reconciliation proceeding or filed at the same
12 time?

13 A That would be filed before March 31st of
14 each year. And I think it would be the Commission's
15 timeline as to when the reconciliation proceeding
16 would occur.

17 Q Okay.

18 JUDGE SAINSOT: So it's your understanding the
19 Commission would initiate the reconciliation?

20 THE WITNESS: It's my understanding that the
21 Company will make two filings with the Commission.
22 The first filing by March 31st, as I mentioned, would

1 include the reports that we just discussed. At the
2 same time, the Company would also file a petition
3 with the Commission seeking the initiation of the
4 docketed annual reconciliation process.

5 BY [!EZ SPEAKER 03]:

6 Q Presumably this rate of return information
7 that would be filed with the Commission would -- is
8 it your testimony that it would provide information
9 to the Commission about how Rider VBA is affecting
10 the Company's earnings?

11 A It's my understanding that that report
12 would describe the impact of the VBA revenues and
13 what their impact was on the Company's reported and
14 earned returns that it provides to the Commission
15 quarterly on a confidential basis.

16 Q Okay. And I'm looking at -- right now I
17 have in front of me the rebuttal volume VBA tariff,
18 which is the first time you indicate that you'll be
19 filing this rate of return information. And it
20 doesn't indicate there what kind of specific
21 accounting information the Company will be filing as
22 part of its report to the Commission about its

1 earnings and Rider VBA.

2 Can you tell -- is it correct, I
3 assume then, that the Company would not be filing a
4 Part 285 filing for the Commission at that point in
5 time to show all of its expenses, revenues, rate base
6 amounts?

7 A You're referring to a full rate case Part
8 285 filing?

9 Q Right.

10 A That's correct.

11 Q Do you know is -- would it be a FERC Form
12 1, would it be the Illinois Commerce Commission
13 annual -- I think it's Form 21 Report? What would it
14 look like?

15 A The Staff of the Commerce Commission had
16 requested that the Company include this type of
17 annual earned rate of return report. And I believe
18 it is currently performing such a report for Peoples
19 Gas under their Rider VBA. So I would expect that
20 the Company would have an opportunity to discuss with
21 Staff the nature and structure of that report and put
22 it together in a similar fashion.

1 Q So sitting here today, you don't know if
2 it's going to look like a FERC Form 1 or an Illinois
3 Commerce Commission Annual Report 21?

4 A I would not expect it to look like either
5 of those reports.

6 Q What would you expect it to look like?

7 A Well, I don't have a copy of what the Staff
8 is doing related to Peoples. It's difficult for me
9 to comment on the exact nature or form of that report
10 that would be suitable to Staff.

11 Q Would you agree that whether or not that
12 information takes the form of say a FERC Form 1 or an
13 Illinois Commerce Commission Report 21 or whatever
14 the form is that's -- Peoples Gas used, that -- that
15 what kind of specific accounting information is filed
16 has direct relevance as to the computation of the
17 Company's earnings and the effect of Rider VBA on
18 those earnings?

19 A Could you please restate the question.

20 [!EZ SPEAKER 03]: Can you read that question
21 back, please.

22

1 (Whereupon, the record was read
2 as requested.)

3 THE WITNESS: The Company's earnings are
4 published financial statements reviewed by
5 independent external auditors. And I don't believe
6 that that information would be affected by any other
7 computations. They are what they are. If that's
8 what you're asking. I mean, and so we'll have
9 evidence as to what those actual earnings are.
10 BY [!EZ SPEAKER 03]:

11 Q But for purposes of determining what those
12 actual earnings are, would you agree that what form
13 the reporting of those earnings takes and what
14 information is supplied for purpose of calculating
15 the earnings affects how a computation of a Company's
16 earnings is achieved?

17 A I think we're talking about two different
18 things. The rider describes the mechanics of the
19 computations that will be used to determine the
20 effective charges under ride VBA. And when Rider VBA
21 is in effect, the Company will follow the tariff to
22 determine the charges that should be applicable.

1 Separately its Accounting Department
2 will record all of the revenues and earnings of the
3 Company and publish its financial statements. So any
4 reports that are then later prepared for the
5 Commission would utilize the data from our published
6 financial statements as well as the information from
7 perhaps the filings of Rider VBA.

8 Q And you keep referencing "published
9 financial statements," and that's what I'm trying to
10 get at. What would those published financial
11 statements -- what form would they take? If not a
12 FERC Form 1 where you've got financial data provided
13 or an Illinois Commerce Commission Form 21, how do we
14 know how this return is going to be computed?

15 A Well, we do file an Annual Form 21 with the
16 Commerce Commission, as all utilities do, so that
17 information is published accounting data. It's
18 available.

19 Again, we would need to refer
20 specifically to what Staff is currently doing with
21 Peoples to see the exact form of the reports that
22 should be generated.

1 Q So is it your testimony then that the
2 financial data that Nicor will file will replicate
3 whatever is being filed by Peoples Gas? Is that your
4 testimony?

5 A My testimony is that the financial data
6 that Nicor Gas files will be its actual audited
7 financial information that may come from a variety of
8 sources, Form 21, our annual 10K, our quarterly
9 reports, our 10Qs. So it could come from those
10 sources.

11 Q 10Qs, are they filed with FERC or the
12 Illinois Commerce Commission or both?

13 A With the SEC.

14 Q Okay. And is it correct that when that
15 kind of financial information is reported on those
16 Form 21s or SEC forms that -- for example, there
17 isn't a line in any of those forms for what we would
18 call rate base. Instead you need to find balances
19 for say plant and service, accumulated depreciation,
20 deferred income taxes, and each other element of rate
21 base, and then add up all those pieces to get a
22 calculated rate base; is that right?

1 A It is true that neither of those forms
2 present rate base as we do in a rate case.

3 Q And would you agree that those forms
4 generally show only beginning and end of year
5 balances of rather than monthly or average rate
6 balances?

7 A Yes, I mean, the balance sheet is as of a
8 particular date. And many items of rate base in this
9 case are averaged over a 13-month period, for
10 example.

11 Q And sitting here today, do you know whether
12 the information that you'll file with the Commission
13 for purposes of it being able to determine the
14 Company's earnings, whether that would be filed on an
15 average rate -- average plant basis or an end of year
16 basis?

17 A Again, while I don't have the exact
18 template that the Staff of the Commission is using
19 with Peoples Gas to guide me, I would envision that
20 the Company would utilize reports similar to the
21 other reports we file with the Commission on a
22 quarterly basis, on a confidential basis that have to

1 do with rate base and earnings and return on rate
2 base.

3 (Change of reporters.)

4 Q And would you agree that whether the
5 Company uses end of year or average balances, that
6 that effects the calculation of the rate base?

7 A Yes.

8 Q And do you know if any of the rate base
9 adjustments that are being proposed in this rate case
10 would be recalculated and reflected in each future
11 rate base calculation by the Company for purposes of
12 reporting its earnings each year and the effect of
13 Rider VBA on those earnings?

14 A Could you please repeat the question?

15 Q Do you know if any of the rate base
16 adjustments that are being proposed in this case
17 would be recalculated and reflected in each future
18 rate base calculation in the earnings filing that the
19 Company would make each year and reported to the
20 Commission?

21 MR. CASEY: At this time, your Honor, I'd
22 object. Miss Lusson has asked Mr. Mudra what

1 information the Company planned to file on an annual
2 basis at Staff's request at least three or four
3 different ways. He said in essence that the Company
4 would look to see what the Staff's requesting in
5 Peoples and provide that same sort of information.

6 MS. LUSSON: Well, your Honors, I should have
7 the ability to explore with the witness what the
8 Company plans on filing and also explore with the
9 witness whether the -- first of all, once -- if the
10 information is identified, that what is filed
11 actually affects how earnings are reported.
12 Presumably this recommendation was made with the
13 purpose of providing some sort of backstop, so to
14 speak, for earnings associated with Rider VBA. If we
15 don't know how the earnings calculation is going to
16 be made, I'm not -- I'll stop there. I think it's
17 necessary to understand how earnings would be
18 reported before we can make a judgement as to whether
19 or not that protects ratepayers.

20 JUDGE SAINSBOT: I think it's pretty clear that
21 he doesn't know how it's going to be reported and I
22 think it's -- you crossed the line. Your objection

1 is sustained.

2 MR. CASEY: Thank you, your Honor.

3 BY MS. LUSSEN:

4 Q And do you have any idea how net operating
5 income would be reported for purposes of the earnings
6 reports?

7 MR. CASEY: Same objection.

8 JUDGE SAINSBURY: Sustained. He doesn't know.

9 MS. LUSSEN: If I could have a moment, I might
10 be done.

11 BY MS. LUSSEN:

12 Q Sitting here today, Mr. Mudra, do you have
13 any idea as to whether or not the Company would be
14 reporting any recurring or -- nonrecurring or
15 one-time adjustments in the final information filed
16 with the Commission for purposes of reporting its
17 earnings?

18 MR. CASEY: Objection. Same objection.

19 JUDGE SAINSBURY: Read that question back to me,
20 I didn't get that first part.

21 (Record read as requested.)

22 JUDGE SAINSBURY: Sustained.

1 You could take a 5 minute break, would
2 that help you, Miss Lusson?

3 MS. LUSSON: I just need about 10 seconds here.

4 JUDGE SAINSOT: Okay. Then we'll take about a
5 5 minute break after you're done.

6 BY MS. LUSSON:

7 Q Just one final question, Mr. Mudra. Prior
8 to your testimony here today, have you ever reviewed
9 the financial information filed by Peoples Gas for
10 purposes of their Rider VBA earnings report?

11 A No, I have not.

12 MS. LUSSON: That's all the questions I have.

13 Thank you, Mr. Mudra.

14 JUDGE SAINSOT: CNE, does CNE have questions
15 still?

16 MR. ROWLAND: No, your Honor.

17 JUDGE SAINSOT: Miss Lusson, you have two
18 Exhibits, 14 and 15.

19 MS. LUSSON: I believe I only had one.

20 JUDGE SAINSOT: Only one, okay. 15, are you
21 admitting that?

22 MS. LUSSON: Yes. I would move for the

1 admission of that exhibit, please.

2 JUDGE SAINSOT: Any objection?

3 MR. CASEY: No, objection, your Honor. I would
4 note, however, that the AG exhibit refers to a
5 response to SK 201 and then within that response is a
6 supplemental response that indicates there's attached
7 confidential information. Your Honor, as opposed to
8 the situation with Mr. Robertson, that information --
9 the actual information is confidential, so the record
10 is clear that the information attached was the Excel
11 spreadsheets that were confidential information.

12 JUDGE SAINSOT: Okay. Thank you for that.

13 MS. LUSSON: Yes, that was my understanding,
14 that only the Excel form was confidential.

15 JUDGE SAINSOT: Thank you for clarifying that.

16 Okay. Hearing no objection,
17 Miss Lusson, your motion is granted and AG Cross
18 Exhibit 15 is entered into evidence.

19 (Whereupon, AG Cross
20 Exhibit No. 15 was
21 admitted into evidence as
22 of this date.)

1 MS. LUSSON: Thank you.

2 JUDGE SAINSOT: Okay. How about 10 minute
3 break. I assume you are going to have redirect?

4 MR. CASEY: That's what we'll talk about during
5 the 10-minute break.

6 (Recess taken.)

7 JUDGE SAINSOT: Okay. We're back on the
8 record. Redirect of Mr. Mudra?

9 MR. CASEY: Yes, your Honor, just a couple
10 questions.

11 REDIRECT EXAMINATION

12 BY

13 MR. CASEY:

14 Q Mr. Mudra, earlier -- much earlier today
15 Mr. Robertson asked you some questions about the
16 increase the Company's proposed as -- the increase as
17 it relates to Rates 1 and 77. In your response, you
18 discuss the maximum increase a residential customer
19 would incur. Do you recall that question?

20 A Yes, I do.

21 Q I believe that you indicated the maximum
22 increase was somewhere about \$5.15 per month and you

1 described that amount as not being very large. In
2 what context did you mean?

3 A That increase of \$5.15 per month is not
4 very large relative to the customer's total bill for
5 distribution service and commodity service. For
6 example, in my surrebuttal testimony, on
7 Exhibit 48.7, I show what an average residential
8 customer's bill looks like under Nicor Gas' proposed
9 rates, including the cost of the commodity itself;
10 and the total for that customer example is \$1,280 and
11 the annual increase is \$58 per year in base rate
12 charges or in that particular case, \$4.86 per month
13 for that customer. So that customer's increase,
14 relative to his total bill at the very bottom of that
15 exhibit on the right-hand side shows that it's a 4.78
16 percentage increase in the customer's total bill. It
17 was in that context that I indicated \$5.15 wasn't a
18 relatively large increase.

19 Q Similarly, Mr. Robertson asked you a series
20 of questions regarding the effect of the Company's
21 proposal -- proposed rates on Rate 77 customers. Do
22 you remember those questions?

1 A Yes, I do.

2 Q Do you know what the effect is of the
3 Company's proposed rates to a Rate 77 customer based
4 on that customer's overall bill, including gas costs
5 or commodity costs?

6 A Yes. In my direct testimony on Exhibit
7 14.9, Page 8 of 8, the Company presented some bill
8 comparisons for Rate 77 customers and looking at that
9 exhibit and including the commodity costs for a
10 Rate 77 customer using 500,000 therms per year and at
11 a 70 percent load factor, the total percentage change
12 in that customer's annual bill would be 1.98 percent
13 of customer's total energy bill.

14 JUDGE SAINSOT: And this is 14 --

15 THE WITNESS: This is 14.9.

16 JUDGE SAINSOT: -- .9.

17 THE WITNESS: Page 8 of 8, Line 19, the far
18 right-hand column labeled Percentage Change of
19 1.98 percent and I would note that that's a very
20 small Rate 77 customer, most of them are using 5, 6,
21 7 million therms per year, so the percentage would be
22 even less than 1.98 percent.

1 MR. CASEY: I have nothing further.

2 JUDGE SAINSOT: Any redirect -- I mean recross?

3 MR. ROBERTSON: No.

4 JUDGE SAINSOT: Miss Lusson?

5 MS. LUSSON: No.

6 JUDGE SAINSOT: Okay. You are excused. Thank

7 you very much, Mr. Mudra.

8 THE WITNESS: Thank you very much.

9 JUDGE SAINSOT: So are there any schedule

10 changes in tomorrow's schedule?

11 MR. ROONEY: Your Honor, in terms of sequence,

12 no. The schedule that I sent out to both of you last

13 evening, as well as all the parties reflected the

14 updates through yesterday. I think the only one

15 issue that might be out there right now is THAT we're

16 going to get back with Miss Soderna about waiving

17 cross for Mr. Thomas and eliminating CUB cross

18 related to Dr. Makholm who is up first tomorrow, but

19 I think that that is it at this point in time.

20 JUDGE SAINSOT: Okay. So this is it unless

21 there's --

22 MR. ROONEY: I don't know if this is a good

1 opportunity, we had a couple more witnesses who were
2 waived that if we could identify and bring those into
3 the record now --

4 JUDGE SAINSOT: Sure --

5 MR. ROONEY: -- that would be great. The first
6 witness is Miss Karen K. Pepping, your Honor. And
7 Miss Pepping submitted two pieces of testimony,
8 rebuttal testimony and surrebuttal testimony.
9 Miss Pepping's rebuttal testimony is identified as
10 Nicor Gas Exhibit 31.0, her surrebuttal testimony has
11 been identified as Nicor Gas Exhibit 50.0 along with
12 attached exhibits 50.1 and 50.2. And we'd move for
13 the admission of those two pieces of testimony and
14 the attached exhibits into evidence.

15 JUDGE SAINSOT: Is there any objection to the
16 admission of Miss Pepping's testimony?

17 (No response.)

18 JUDGE SAINSOT: Hearing none, your motion is
19 granted.

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1 (Whereupon, Nicor Gas
2 Exhibit Nos. 31.0, 50.0,
3 50.1 and 50.2 were
4 admitted into evidence as
5 of this date.)

6 MR. ROONEY: Thank you, your Honor.

7 JUDGE SAINSOT: Just for the record,
8 Miss Pepping's testimony consists of Nicor Exhibit
9 31.0 and 50.0 with attachments 50.1 and 50.2.

10 MR. ROONEY: And then consistent with our
11 agreement with Staff with regard to Miss Freetly and
12 Mr. Ruschau from the Company, I'd like to move in the
13 direct rebuttal and surrebuttal testimony of Douglas
14 M. Ruschau. Mr. Ruschau's direct testimony is
15 identified as Nicor Gas Exhibit 9.0 attached thereto
16 are Exhibits 9.1 through 9.5; rebuttal testimony is
17 identified as Nicor Gas Exhibit 24.0 with attached
18 Exhibits 24.1 through 24.89.

19 And finally, surrebuttal testimony has
20 been identified as Nicor Gas Exhibit 43.0 along with
21 attachments 43.1 and 43.2 and the Company would move
22 those exhibits into evidence.

1 JUDGE SAINSOT: Any objection?

2 (No response.)

3 JUDGE SAINSOT: Hearing none, your motion is

4 granted and the testimony of Douglas M. Ruschau is

5 admitted into evidence. And just so we're clear,

6 it's Nicor Exhibits 9.1 with -- 9.0 with attachments

7 to it which consists of 9.1 through 9.5. Also, Nicor

8 Exhibit 24.0 and attachments 24.1 through 24.8 and,

9 finally, it is Nicor Exhibit 43.0 with attachments

10 43.1 through 43.2.

11 (Whereupon, Nicor Gas

12 Exhibit Nos. 9.0, 9.1 through 9.5,

13 24.0, 24.1 through 24.8,

14 Exhibit 43.0, 43.1 through 43.2 were

15 admitted into evidence as

16 of this date.)

17 MR. ROONEY: And then for housekeeping

18 purposes, in terms of Nicor's prefiled testimony,

19 your Honor, we have Dr. Makholm up tomorrow morning

20 and then the only other one witness, Mr. Kirby whose

21 cross is waived, we'll present his testimony tomorrow

22 as well.

1 JUDGE SAINSOT: So you are in pretty good
2 shape?

3 MR. ROONEY: Close.

4 JUDGE SAINSOT: Okay. Anything else?

5 MS. LUSSON: If I could, your Honor, the
6 AG's -- both of the Attorney General's witnesses were
7 not requested to come in for cross, so if I could, I
8 would like to move for admission of those exhibits.

9 We'd first move for the admission of
10 the direct testimony of David J. Effron, both public
11 and confidential versions that were filed on
12 August 27th and the public version was identified as
13 Exhibit 1.0 and 1.1, as well as the confidential
14 direct testimony of David J. Effron, which is also
15 confidential Exhibit 1.0 and 1.1 and I would move for
16 the admission of those documents.

17 JUDGE SAINSOT: Any objection?

18 (No response.)

19 JUDGE SAINSOT: Hearing none, your motion is
20 granted and Mr. Effron's testimony which consists
21 of -- Effron doesn't have any rebuttal testimony?

22 MS. LUSSON: He does. I was going to do is

1 separately, if you'd like I can do it together.

2 JUDGE SAINSOT: Yeah, why not.

3 MS. LUSSON: Mr. Effron also filed rebuttal
4 testimony on October 23rd. Those exhibits were
5 marked as Exhibit 4.0, 4.1, 4.2 and 4.3 and we would
6 move for the admission of that rebuttal exhibit and
7 as well as the corrected version of AG CUB Exhibit
8 Effron 4.1.

9 JUDGE SAINSOT: So you have 4.0?

10 MS. LUSSON: Corrected 4.1, 4.2 and 4.3.

11 JUDGE SAINSOT: Okay. Got it. Any objection?

12 MR. ROONEY: None.

13 JUDGE SAINSOT: Okay. Your motion is granted.

14 And just for the record, I just want to make sure
15 that we're clear as to what the exhibits are.

16 Mr. Effron's testimony, which is AG Exhibit 1.0, 1.1
17 and apparently confidential version of 1.0 and 1.1,
18 as well as AG Exhibit 4.0, 4.1 corrected and 4.2 are
19 admitted into evidence.

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1 (Whereupon, AG
2 Exhibit Nos. 1.0, 1.1,
3 4.0, 4.1, 4.2 were
4 admitted into evidence as
5 of this date.)

6 MS. LUSSON: As well as 4.3, your Honor.

7 JUDGE SAINSOT: Okay. And 4.3.

8 (Whereupon, AG
9 Exhibit No. 4.3 was
10 admitted into evidence as
11 of this date.)

12 MS. LUSSON: And one other -- three other
13 pieces of testimony filed by Scott J. Rubin, direct
14 testimony Exhibits 2.0 through 2.15. In addition,
15 there was the additional direct testimony of Scott J.
16 Rubin, which were Exhibits 3.0 through 3.7 and the
17 rebuttal testimony of Scott J. Rubin, which was
18 Exhibit 5.0 through 5.5.

19 MR. ROONEY: Excuse me. On the direct, was
20 there one piece that was confidential?

21 THE WITNESS: That confidential designation was
22 removed.

1 MR. ROONEY: That's right. Sorry.

2 MS. LUSSEN: And we made that correction on the
3 versions that are being filed.

4 JUDGE SAINSBOT: Okay. Any objection to the
5 admission of Mr. Rubin's testimony into evidence?

6 MR. ROONEY: No.

7 JUDGE SAINSBOT: Hearing none, your motion is
8 granted and AG Exhibits 2.0, with attachments 2.1
9 through 2.15 as well as 3.0 with attachments 3.1
10 through 3.7 and 5.0 with attachments 5.1 through 5.5
11 are admitted into evidence.

12 (Whereupon, AG
13 Exhibit Nos. 2.0, 2.1 through 2.15
14 3.0, 3.1 through 3.7 and
15 5.0, 5.1 through 5.5 were
16 admitted into evidence as
17 of this date.)

18 MS. LUSSEN: Thanks very much.

19 JUDGE SAINSBOT: Okay. Anything further anybody
20 else?

21 (No response.)

22 JUDGE SAINSBOT: Okay. Thanks. See you

1 tomorrow at 9:00.

2 (Whereupon, an evening

3 recess was taken to resume

4 at 9:00 a.m.)

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